

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

LAWRENCE PETERSON,)
)
Plaintiff,)
)
vs.) Case No. 1:13-cv-01425-TWP-MJD
)
D. FOUNTAIN, LIEUTENANT BURKE,)
MR. SHANNON, MS. PECKHAM,)
MS. GILLEY, MR. KING, defendants sued in)
their individual Capacities,)
)
Defendants.)

Entry Discussing Complaint and Directing Further Proceedings

The court has screened the Complaint as required by 28 U.S.C. § 1915A(b). Pursuant to this statute, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S.Ct. 910, 921 (2007). To satisfy the notice-pleading standard of Rule 8 of the Federal Rules of Civil Procedure, a complaint must provide a “short and plain statement of the claim showing that the pleader is entitled to relief,” which is sufficient to provide the defendant with “fair notice” of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) and quoting Fed. R. Civ. P. 8(a)(2)).

The complaint alleges that defendants D. Fountain, Lt. Burke, Mr. Shannon, Ms. Peckham, Ms. Gilley, and Mr. King retaliated against plaintiff Lawrence Peterson for filing lawsuits in this Court in violation of the First Amendment. This claim shall proceed while other claims must be dismissed consistent with the following:

First, any claim for compensatory damages is **dismissed** because no physical injury is alleged. The Prison Litigation Reform Act provides that a prisoner is not entitled to recover damages for the mental and emotional Awithout a prior showing of physical injury.@ 42 U.S.C. ' 1997e(e). ASection 1997e(e) as enacted is . . . simple to understand. A >prisoner= cannot bring an action for mental injury unless he has suffered physical injury too.@ *Kerr v. Punkett*, 138 F.3d 321, 323 (7th Cir. 1998).

Second, the complaint is not understood to allege an independent denial of access to courts claim. Nor could any such claim arise out of case numbers 1:11-cv-1122-TWP-MJD or 1:13-cv-466-RLY-DML given the current record in these cases. “[T]o state a right to access-to-courts claim and avoid dismissal under Rule 12(b)(6), a prisoner must make specific allegations as to the prejudice suffered because of the defendants= alleged conduct.” *Ortloff v. United States*, 335 F.3d 652, 656 (7th Cir. 2003). For example, in 1:11-cv-1122-TWP-MJD, Lawrence survived summary judgment and counsel has appeared on his behalf. To the extent Lawrence asserts that he missed a discovery deadline and needs additional time he could (and still can) present that issue in the appropriate case.

Third, any claim brought pursuant to 42 U.S.C. § 1985 is **dismissed**. The function of a conspiracy claim under 42 U.S.C. § 1985(3) is to “permit recovery from a private actor who has conspired with state actors.” When, as here, the defendants are all state actors, “a § 1985(3) claim does not add anything except needless complexity.” *Turley v. Rednour*, 2013 WL 3336713, *7, fn.2 (7th Cir. July 3, 2013) (quoting *Fairley v. Andrews*, 578 F.3d 518, 526 (7th Cir. 2009)).

The plaintiff's motion for assistance in serving the defendants [dkt. 3] is **granted** consistent with the following. The clerk is designated, pursuant to *Fed. R. Civ. P.* 4(c)(3), to issue and serve process on the defendants in the manner specified by *Fed. R. Civ. P.* 4(d)(1). Process shall consist of the complaint, applicable forms and this Entry.

IT IS SO ORDERED.

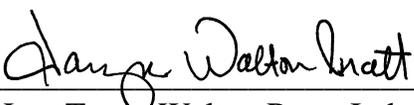
Date: 10/02/2013

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